



# HOLIDAY ENTITLEMENT FOR PART-YEAR AND IRREGULAR HOURS WORKERS - CALCULATIONS

Issued 8 March 2023

ICAEW welcomes the opportunity to comment on the Calculation of holiday entitlement for part-year and irregular hours workers consultation published by the Department for Business, Energy & Industrial Strategy on 12 January 2023, a copy of which is available from this [link](#)

For questions on this representation please contact our Tax Faculty team at [taxfac@icaew.com](mailto:taxfac@icaew.com) quoting REP 22/23.

Employers, human resources and software developers will need sufficient lead-in time to change procedures and software.

Guidance and communications to employers and advisers must make it clear that the changes apply only to Great Britain, and that Northern Ireland, which already diverges from GB, will not be affected by these changes.

This response of 8 March 2023 has been prepared by the ICAEW Tax Faculty. Internationally recognised as a source of expertise, the ICAEW Tax Faculty is a leading authority on taxation and is the voice of tax for ICAEW. It is responsible for making all submissions to the tax authorities on behalf of ICAEW, drawing upon the knowledge and experience of ICAEW's membership. The Tax Faculty's work is directly supported by over 130 active members, many of them well-known names in the tax world, who work across the complete spectrum of tax, both in practice and in business. ICAEW Tax Faculty's Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it, are summarised in Appendix 1.

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## KEY POINTS

1. For employers, the coupled impact of changes as a result of this consultation and changes arising from the EU law 'bonfire' is a daunting prospect. We refer you to our Ten Tenets for a Better Tax System, by which we benchmark the tax system and changes to it (summarised in Appendix 1), which apply equally here.
2. This consultation impacts only legislation that applies in Great Britain. This needs to be made clear in communications to employers and advisers and guidance, as the situation in Northern Ireland will remain unchanged (and it is already different in terms of the 52-week reference period).
3. Employers cannot update procedures at the drop of a hat. To make these changes work, employers and advisers will need to be given sufficient lead-in time.
4. The same applies to human resources and payroll software where developers cannot make these changes overnight, if, indeed, they say that they can perform the holiday pay calculations for clients. At the very least, there will be a requirement for employers to be able to differentiate in systems as to which workers these changes will apply to (part-year and irregularly-paid) and those to whom they will not.
5. We recommend that consideration be given to the interaction of these proposed changes with the Retained EU Law (Revocation and Reform) Bill which is intended to drop all EU-derived legislation at the end of 2023. The Working Time Regulations were EU-derived, yet the EU only specified that all workers should receive at least 4 weeks (20 days for someone working full-time). The additional 1.6 weeks was conferred on workers by UK domestic legislation that was not EU-derived.

## APPENDIX 1

### ICAEW TAX FACULTY'S TEN TENETS FOR A BETTER TAX SYSTEM

The tax system should be:

1. Statutory: tax legislation should be enacted by statute and subject to proper democratic scrutiny by Parliament.
2. Certain: in virtually all circumstances the application of the tax rules should be certain. It should not normally be necessary for anyone to resort to the courts in order to resolve how the rules operate in relation to his or her tax affairs.
3. Simple: the tax rules should aim to be simple, understandable and clear in their objectives.
4. Easy to collect and to calculate: a person's tax liability should be easy to calculate and straightforward and cheap to collect.
5. Properly targeted: when anti-avoidance legislation is passed, due regard should be had to maintaining the simplicity and certainty of the tax system by targeting it to close specific loopholes.
6. Constant: Changes to the underlying rules should be kept to a minimum. There should be a justifiable economic and/or social basis for any change to the tax rules and this justification should be made public and the underlying policy made clear.
7. Subject to proper consultation: other than in exceptional circumstances, the Government should allow adequate time for both the drafting of tax legislation and full consultation on it.
8. Regularly reviewed: the tax rules should be subject to a regular public review to determine their continuing relevance and whether their original justification has been realised. If a tax rule is no longer relevant, then it should be repealed.
9. Fair and reasonable: the revenue authorities have a duty to exercise their powers reasonably. There should be a right of appeal to an independent tribunal against all their decisions.
10. Competitive: tax rules and rates should be framed so as to encourage investment, capital and trade in and with the UK.

These are explained in more detail in our discussion document published in October 1999 as TAXGUIDE 4/99 (see <https://goo.gl/x6UjJ5>).